Roaming on public mobile communications networks within the Union. Recast

2011/0187(COD) - 02/05/2012 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Industry, Research and Energy adopted the report by Angelika NIEBLER (EPP, DE) on the proposal for a regulation of the European Parliament and of the Council on roaming on public mobile communications networks within the Union (recast).

The committee recommends that the position of the European Parliament in first reading following the ordinary legislative procedure should be to amend the Commission proposal. The proposed amendments are the result of negotiations between members of the committee and Member States' representatives. They may be summarised as follows:

Subject matter and scope: it is specified that the Regulation lays down rules to enable the **separate sale of regulated roaming services from domestic mobile communications services** and sets out the conditions for wholesale access to public mobile communications networks for the purpose of providing regulated roaming services. It applies both to charges levied by network operators at wholesale level and to charges levied by roaming providers at retail level.

The amended text states that the separate sale of regulated roaming services from domestic mobile communications services is a necessary **intermediate step** to increase competition so as to lower roaming tariffs for customers in order to achieve an internal market for mobile communication services and ultimately for there to be **no differentiation between national and roaming tariffs.**

With regard to maximum wholesale charges fixed in the Regulation, the limits in currencies other than the euro shall be revised annually as from 2015. The annually revised limits in those currencies shall apply from 1 July using the reference exchange rates published on 1 May of the same year.

Where maximum retail charges are denominated in **currencies other than the euro**, the initial limits shall be determined in those currencies by applying the average of the reference exchange rates published on 1 March, 1 April and 1 May 2012 by the European Central Bank in the Official Journal of the European Union.

Definitions: 'roaming provider' means an undertaking that provides a roaming customer with regulated retail roaming services. The text introduces a definition of **'visited network'** which means a terrestrial public mobile communications network situated in a Member State other than that of the roaming customer's domestic provider that permits a roaming customer to make or receive calls, to send or receive SMS messages or to use packet switched data communications, by means of arrangements with the home network operator.

'Roaming customer' means a customer of a roaming provider of regulated roaming services, by means of a terrestrial public mobile communications network situated in the Union, whose contract or arrangement with that roaming provider permits Union-wide roaming.

Lastly, the text introduces a definition of '**Euro-voice tariff'**.

Wholesale roaming access: mobile network operators may refuse requests for wholesale roaming access only on the basis of **objective criteria**. Mobile network operators shall provide the undertaking requesting access with a **draft contract**, for such access at the latest one month after the initial receipt of the request by the mobile network operator.

By 30 September 2012, and in order to contribute to the consistent application of this Article, he Body of European Regulators for Electronic Communications (BEREC) shall, after consulting stakeholders and in close cooperation with the Commission, lay down **guidelines** for wholesale roaming access.

Separate sale of regulated retail roaming services: domestic providers shall enable their customers to access regulated voice, SMS and data roaming services, provided as a bundle by any alternative roaming provider.

Neither domestic nor roaming providers **shall prevent customers** from accessing regulated data roaming services provided directly on a network visited by an alternative roaming provider.

The switch to an alternative roaming provider or between roaming providers **shall be free of charge for customers and shall be possible under any tariff plan.** It shall not entail any associated subscription or additional fixed or recurring charges, pertaining to elements of the subscription other than roaming, as compared to the conditions prevailing before the switch.

- At the time of making or renewing a contract on mobile communication services, domestic providers shall provide all their customers individually with full information on the possibility to choose an alternative roaming provider and shall not hinder the conclusion of a contract with an alternative roaming provider.

- Customers concluding a contract with a domestic provider for regulated roaming services shall explicitly confirm that they have been informed of such possibility.

- A domestic provider **shall not prevent, dissuade or discourage retailers** serving as the domestic provider's points of sale from offering contracts for separate roaming services with alternative roaming providers.

- The technical characteristics of regulated roaming services **shall not be altered** in such a way as to make them differ from the technical characteristics of the regulated roaming services, including the quality parameters, as provided to the customer before the switch.

Implementation of separate sale of regulated retail roaming services: domestic providers shall implement the separate sale of regulated retail roaming services so that customers can use domestic mobile communication services and separate regulated roaming services. **Access to those facilities and support services** that are necessary for the separate sale of regulated roaming services, including user authentication services, shall be free of charge and shall not entail any direct charges to customers.

The technical solution to implement the separate sale of regulated retail roaming services shall meet certain specified criteria, including ability to give effect to the obligations regarding separate sale of regulated retail roaming services in an efficient manner.

Committee procedure: the Commission shall be assisted by the Communications Committee established by Article 22 of the Framework Directive. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers.

Wholesale charges for the making of regulated roaming calls: the average wholesale charge that the visited network operator may levy on the customer's roaming provider for the provision of a regulated roaming call originating on that visited network, inclusive inter alia of origination, transit and termination costs, shall not exceed **EUR 0.14 per minute as of 1 July 2012.**

The average wholesale charge referred to above shall apply between any pair of operators and shall be calculated over a 12-month period or any such shorter period as may remain before the end of the period of application of a maximum average wholesale charge or before 30 June 2022. **The maximum average wholesale charge shall decrease to EUR 0.10 on 1 July 2013 and to EUR 0.05 on 1 July 2014 and shall remain at EUR 0.05 until 30 June 2022**.

Retail charges for regulated roaming calls: roaming providers shall make available and actively offer to all their roaming customers, clearly and transparently, a Euro-voice tariff. That tariff shall not entail any associated subscription or other fixed or recurring charges and may be combined with any retail tariff.

The retail charge (excluding VAT) for a **Euro-voice tariff** may vary for any roaming call but shall not exceed **EUR 0.29 per minute for any call made or EUR 0.08 per minute for any call received.**

The maximum retail charge for calls made shall **decrease to EUR 0.24 on 1 July 2013** and to **EUR 0.19 on 1 July 2014** and the maximum retail charge for calls received shall decrease to **EUR 0.07 on 1 July 2013 and to EUR 0.05 on 1 July 2014**. These maximum retail charges for the Euro-voice tariff shall remain valid until 30 June 2017.

Roaming providers:

- shall not levy any charge on their roaming customers for the receipt by them of a roaming voicemail message;

- shall charge its roaming customers for the provision of any regulated roaming call to which a Euro-voice tariff applies, whether made or received, on a per second basis;

- may apply an initial minimum charging period not exceeding 30 seconds to calls made which are subject to a Euro-voice tariff.

Furthermore, roaming providers:

- shall apply a Euro-voice tariff to all existing roaming customers automatically with the exception of such roaming customers who have already made a deliberate choice of a specific roaming tariff or package by virtue of which they benefit from a different tariff for regulated roaming calls than they would have been accorded in the absence of such a choice;

- shall apply a Euro-voice tariff to all new roaming customers who do not make a deliberate choice to select a different roaming tariff or a tariff package for roaming services which includes a different tariff for regulated roaming calls.

Any roaming customer may request to switch to or from a Euro-voice tariff.

A roaming provider may delay a switch until the previous roaming tariff has been effective for a **minimum specified period not exceeding two months**. A Euro-voice tariff may always be combined with a Euro-SMS tariff and a Euro-data tariff.

Wholesale charges for regulated roaming SMS messages: with effect from 1 July 2012, the average wholesale charge that the visited network operator may levy for the provision of a regulated roaming SMS message originating on that visited network shall not exceed **EUR 0.03 per SMS message**, shall **decrease to EUR 0.02 on 1 July 2013** and shall **remain at EUR 0.02 until 30 June 2022.**

Retail charges for regulated roaming SMS messages: with effect from 1 July 2012, the retail charge (excluding VAT) for a Euro-SMS tariff which a roaming provider may levy on its roaming customer for a regulated roaming SMS message sent by that roaming customer may vary for any regulated roaming SMS message but shall **not exceed EUR 0.09**. That maximum charge shall **decrease to EUR 0.08 on 1 July 2013** and **to EUR 0.06 on 1 July 2014** and shall **remain at EUR 0.06 until 30 June 2017**.

Roaming providers: (i) shall not levy any charge on their roaming customers for the receipt by them of a regulated roaming SMS message; (ii) may delay a switch until the previous roaming tariff has been effective for a minimum specified period not exceeding two months. A Euro-SMS tariff may always be combined with a Euro-voice tariff and a Euro-data tariff.

No roaming provider, domestic provider, home network operator or visited network operator shall alter the technical characteristics of regulated roaming SMS messages in such a way as to make them differ from the technical characteristics of SMS messages provided within its domestic market.

Wholesale charges for regulated data roaming services: with effect from 1 July 2012, the average wholesale charge that the visited network operator may levy on the roaming customer's home provider for the provision of regulated data roaming services by means of that visited network shall not exceed a **safeguard limit of EUR 0.25 per megabyte of data transmitted**. The safeguard limit shall **decrease to EUR 0.15 per megabyte of data transmitted on 1 July 2013** and to **EUR 0.05 per megabyte of data transmitted on 1 July 2014** and shall **remain at EUR 0.05 per megabyte of data transmitted until 30 June 2022.**

Retail charges for regulated data roaming services: roaming providers shall make available and actively offer to all their roaming customers, clearly and transparently, a Euro-data tariff.

With effect from 1 July 2012, the retail charge (excluding VAT) of a Euro-data tariff which a roaming provider may levy on its roaming customer for the provision of a regulated data roaming service shall not exceed **EUR 0.70 per megabyte used**. The maximum retail charge for data used shall **decrease to EUR 0.45 per megabyte used on 1 July 2013** and to **EUR 0.20 per megabyte used on 1 July 2014** and shall **remain at EUR 0.20 per megabyte used until 30 June 2017.**

Every roaming provider shall charge its roaming customers for the provision of any regulated roaming data service to which a Euro-data tariff applies on a per kilobyte basis, **except for Multimedia Messaging Service (MMS) messages** which may be charged on a per unit basis. In such a case, the retail charge which a roaming provider may levy on its roaming customer for the transmission or receipt of a roaming MMS message shall not exceed the maximum retail charge set in the Regulation.

Transparency of retail charges for roaming calls and SMS messages: to alert roaming customers to the fact that they will be subject to roaming charges when making or receiving a call or when sending an SMS message, each roaming provider shall provide the customer, automatically by means of a Message Service, without undue delay and free of charge, when he enters a Member State other than that of his domestic provider, with basic personalised pricing information on the roaming charges (including VAT) that apply to the making and receiving of calls and to the sending of SMS messages by that customer in the Member State visited.

That basic personalised pricing information shall include the maximum charges **(in the currency of the home bill provided by the customer's domestic provider)** to which the customer may be subject under his tariff scheme for:

- making regulated roaming calls within the visited Member State and back to the Member State of his domestic provider, as well as for regulated roaming calls received; and

- sending regulated roaming SMS messages while in the Member State visited.

These provisions shall also apply to voice and SMS roaming services used by roaming customers travelling outside the Union and provided by a roaming provider.

Transparency and safeguard mechanisms for retail data roaming services: where appropriate, roaming providers shall inform their customers, before the conclusion of a contract and on a regular basis thereafter, of the risk of automatic and uncontrolled data roaming connection and download. Furthermore, roaming providers shall notify to their customers, free of charge and in a clear and easily understandable manner, how to switch off these automatic data roaming connections in order to avoid uncontrolled consumption of data roaming services.

Review: the Commission shall review the functioning of this Regulation and, after a public consultation, shall report to the European Parliament and the Council by **30 June 2016**. In so doing, the Commission shall review, inter alia:

- the developments and expected future trends in wholesale and retail charges for the provision to roaming customers of voice, SMS and data communication services, in comparison to the charges for mobile communications services at domestic level in the Member States, both for pre-paid and post-paid customers separately, and in the quality and speed of these services;

- the difference between roaming and national tariffs, including the availability of offers providing a single tariff for national and roaming services;

- the extent to which the implementation of the structural measures provided for in the Regulation has produced results in developing competition in the internal market for roaming services to the extent that the difference between roaming and national tariffs has approached zero;

- the extent to which the level of wholesale and retail maximum charges has provided adequate safeguards against excessive prices for consumers while allowing the development of competition in the internal market for roaming services.

If the report shows that the structural measures provided for by the Regulation have not been sufficient to promote competition in the internal market for roaming services for the benefit of all European consumers or that the differences between roaming tariffs and national tariffs have not approached zero, the **Commission shall make appropriate proposals to the European Parliament and the Council** to address this situation and thus achieve an internal market for mobile communication services, ultimately with there being no difference between national and roaming tariffs.